

NOTICE OF INTENT

Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division

Under the authority of the Louisiana Environmental Quality Act, La. R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 15, 22, and 41, (Log # HW055*).

This proposed rule is identical to a federal law or regulation which is applicable in Louisiana. No fiscal or economic impact will result from the proposed rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

The proposed rule contains the following provisions: 1) the exclusion from the definition of solid waste of secondary materials that are recycled back into the secondary production process from which they were generated from the definition of solid waste; 2) treatment standards for certain newly identified organic toxicity wastes and for newly listed coke products, chlorotoluene production wastes, and dilution prohibitions for high total organic content ignitable and toxicity characteristic pesticides; 3) minor modifications to the land disposal restrictions; and 4) the removal of the exemption from anti-skid/deicing uses of slags from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006.

A public hearing will be held on April 24, 1997, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact Patsy Deaville at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by the Log #HW055*. Such comments should be submitted no later than April 24, 1997, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Post Office Box 82282, Baton Rouge, LA, 70810 or to fax number (504)765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. You may contact the Investigations and Regulation Development Division at (504) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW055*.

This proposed regulation is available for inspection at the following DEQ office locations from 8:00 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810; 804 31st Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA

70605; 3501 Chateau Boulevard West Wing, Kenner, LA 70065; 100 Asma
Boulevard, Suite 151, Lafayette, LA 70508.

H. M. Strong
Assistant Secretary

Title 33**ENVIRONMENTAL QUALITY****Part V. Hazardous Waste and Hazardous Materials****Subpart 1. Department of Environmental Quality-Hazardous Waste****Chapter 1. General Provisions and Definitions****§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste", appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A-D.1]

2. A generator who temporarily stores hazardous wastes in an environmentally safe container or tank (see LAC 33:V.1109.E) on-site for 90 days or less is exempt from the permitting regulations except for the requirements of LAC 33:V.Chapter 11. Generators must record the date that storage began by proper marking of the container or by other methods acceptable to the administrative authority. Such temporary storage shall be in an

environmentally sound manner in compliance with the technical requirements of LAC 33:V.1505, 1509.A, 1513-1517, 1525, and as applicable with LAC 33:V.1903.A and B, 1905-1913 and 1919, ~~LAC 33:V.2103-2109. BC~~, and 2111-2115.

* * *

[See Prior Text in D.3-28.e]

29. In accordance with the standards and criteria below and the procedures in LAC 33:V.105.K, the administrative authority may determine on a case-by-case basis that the following recycled materials are not solid wastes. The administrative authority may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original ~~primary production~~ process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

* * *

[See Prior Text in D.29.a-M.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May

1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), LR 23:**.

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

* * *

[See Prior Text]

Solid Waste—

* * *

[See Prior Text in 1-5.a.ii]

iii. returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for ~~raw material~~.

feedstock materials., ~~and the process must use raw materials as~~
~~principal feedstocks.~~ In cases where the original process to
which the material is returned is a secondary process, the
materials must be managed such that there is no placement on
land.

* * *

[See Prior Text in Solid Waste.5.b - Zone of
Engineering Control]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180
et seq.

HISTORICAL NOTE: Promulgated by the Department of
Environmental Quality, Office of Solid and Hazardous Waste,
Hazardous Waste Division, LR 10:200 (March 1984), amended LR
10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May
1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR
13:651 (November 1987), LR 14:790 (November 1988), LR 15:181
(March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990),
LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July
1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478
(May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992),
LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended
by the Office of the Secretary, LR 19:1022 (August 1993),
amended by the Office of Solid and Hazardous Waste, Hazardous
Waste Division, LR 20:1000 (September 1994), LR 21:266 (March

1995), LR 21:944 (September 1995), LR 22:813 (September 1996),
LR 22:831 (September 1996), LR 23:**.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality-Hazardous Waste

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A-C.5]

6. the owner or operator of an elementary neutralization unit or wastewater treatment unit (see LAC 33:V.109) provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in LAC 33:V.Chapter 22.Table 2, Treatment Standards for Hazardous Wastes) or ~~corrosive (D002)~~ reactive (D003) waste to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in LAC 33:V.1517.B;

* * *

[See Prior Text in C.7-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR

18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944
(September 1995), LR 23:**.

Title 33**ENVIRONMENTAL QUALITY****Part V. Hazardous Waste and Hazardous Materials****Subpart 1. Department of Environmental Quality-Hazardous Waste****Subchapter A. Land Disposal Restrictions****Chapter 22. Prohibitions on Land Disposal****§2225. Treatment Standards Expressed as Concentrations in Waste Extract**

A. LAC 33:V.Chapter 22.Table 27 identifies the hazardous constituents, along with the nonwastewater and wastewater treatment standard levels, that are used to regulate most prohibited hazardous wastes with numerical limits. For determining compliance with treatment standards for underlying hazardous constituents, as defined in LAC 33:V.2203, these treatment standards may not be exceeded. Compliance with these treatment standards is measured by an analysis of grab samples, unless otherwise noted in the LAC 33:V.Chapter 22.Table 7prohibited wastes and the concentrations of their associated hazardous constituents that may not be exceeded in the extract of a waste or waste treatment residual extracted according to the Toxicity Characteristic Leaching Procedure as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110 for the allowable land disposal of such wastes.

B. When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern ~~except that mixtures of high- and low-zinc nonwastewater K061 are subject to the treatment standard for high-zinc K061.~~

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:**.

§2230. Treatment Standards for Hazardous Debris

* * *

[See Prior Text in A-B.1]

2. the contaminants subject to treatment for debris that is contaminated with a prohibited listed hazardous waste are those constituents for or wastes for which treatment standards are established ~~which BDAT standards are established for that waste~~ under LAC 33:V.Chapter 22.Table 2; and

* * *

[See Prior Text in B.3-D.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:22 (January 1996), LR 23:**.

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

* * *

[See Prior Text in A]

B. If a generator determines that he or she is managing a waste prohibited under this Chapter, and the waste does not meet the applicable treatment standards set forth in LAC 33:V.Chapter 22.Subchapter A or the waste exceeds the applicable prohibition levels set forth in LAC 33:V.2213 or RCRA section 3004(d), with each shipment of waste the generator must notify the treatment or storage facility in writing ~~of the appropriate treatment standards set forth in LAC 33:V.Chapter 22.Subchapter A and any applicable prohibitions set forth in LAC 33:V.2213~~. The notice must include the following information:

* * *

[See Prior Text in B.1]

2. the waste constituents that the person treating the waste will monitor, if monitoring will not include all regulated

constituents, for wastes F001-F005, F039, D001, D002, and D012-D043 and in LAC 33:V.2213 or RCRA section 3004(d). Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as "D003 reactive cyanide"), if applicable;

* * *

[See Prior Text in B.3-5]

6. ~~for hazardous debris when using the treatment standards~~
~~for the contaminating waste(s) in LAC 33:V.2223, the~~
~~requirements described in LAC 33:V.2245.B.1-5 and~~ the date the waste is subject to the prohibitions.

* * *

[See Prior Text in C-C.1.a]

b. the waste constituents that the person treating the waste will monitor, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, and D012-D043 and in LAC 33:V.2213 or RCRA section 3004(d). Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as "D003 reactive cyanide "), if applicable;

* * *

[See Prior Text in C.1.c-d]

2. The certification must be signed by a duly authorized representative and must state the following:

"I certify under penalty of law that I have personally examined and am familiar with the waste through analysis and testing or through knowledge of the waste ~~and can to~~ support this certification that the waste complies with the treatment standards specified in LAC 33:V.Chapter 22.Subchapter A and all applicable prohibitions set forth in LAC 33:V.2213 or RCRA section 3004(d). I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false certification, including the possibility of fines and imprisonment."

D. If a generator's waste is subject to ~~a case-by-case extension under LAC 33:V.2239 or~~ an exemption from a prohibition on the type of land disposal method utilized for the waste (such as, but not limited to, a case-by-case extension under LAC 33:V.2239), an exemption under LAC 33:V.2241 or 2271, or a nationwide capacity variance under LAC 33:V.Chapter 22.Subchapter A, with each shipment of waste he or she must submit a notice to the facility receiving the waste, stating that the waste is not prohibited from land disposal. The notice must include the following information:

* * *

[See Prior Text in D.1-E.3]

F. If a generator determines whether the waste is prohibited solely on the basis of his or her knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines whether the waste is prohibited on the basis of tests of this waste or an extract developed using the ~~Toxicity Characteristic Leaching Procedure and test methods in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110~~ test method described in LAC 33:V.Chapter 49.Appendix B, all waste analysis data must be retained on-site in the generator's files.

G. If a generator determines that a prohibited waste that the generator is managing was excluded from the definition of hazardous or solid waste or exempted from regulation under LAC 33:V.Chapter 1, 39, or 41 ~~subsequent to after the waste was generated or moved from~~ the point of generation, the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from the regulation under LAC 33:V.Subpart 1, and the disposition of the waste, in the facility's file.

* * *

[See Prior Text in H]

I. If a generator is managing a lab pack that contains none of the wastes specified in LAC 33:V.Chapter 22.Table 6 and

wishes to use the alternative treatment standards under LAC 33:V.2227 C, with each shipment of waste the generator must submit a notice to the treatment facility in accordance with LAC 33:V.2245.B, except that underlying hazardous constituents need not be determined. The generator must also comply with the requirements in LAC 33:V.2245.F and G, and must submit the following certification, which must be signed by a duly authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the waste, and that the lab pack does not contain any wastes identified in LAC 33:V.Chapter 22.Table 6 ~~, or solid wastes not subject to regulation under LAC 33:V.Chapter 49~~. I am aware that there are significant penalties for submitting a false certification, including the possibility of fines and imprisonment."

* * *

[See Prior Text in J-K]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR

22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130
(November 1996), LR 23:**.

**§2247. Owners or Operators of Treatment or Disposal Facilities:
Testing, Waste Minimization, Recordkeeping, and Notice
Requirements**

* * *

[See Prior Text in A-E.1]

2. the waste constituents to be monitored, if monitoring will not include all regulated constituents, for wastes F001-F005, F039, D001, D002, and D012-D043 and in LAC 33:V.2261 or RCRA section 3004(d). Generators must also include whether the waste is a nonwastewater or wastewater (as defined in LAC 33:V.2203) and indicate the subcategory of the waste (such as D003 reactive cyanide), if applicable;

* * *

[See Prior Text in E.3-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:**.

APPENDIX

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[See Prior Text in Table 2-5]

Table 6

WASTES EXCLUDED FROM LAB PACKS UNDER THE ALTERNATIVETREATMENT STANDARDS OF LAC 33:V.2227.C

Hazardous waste with the following EPA hazardous waste
codes may not be placed in lab packs under the
alternative lab pack treatment standards of LAC
33:V.2227.C.

~~Wastes Prohibited from Alternative Lab Pack Treatment~~~~Standards~~

D009	K062	P012
F019	K071	P076
K003	K100	P078
K004	K106	U134
K005	P010	U151
K006	P011	

* * *

[See Prior Text in Table 7-footnote 3]

⁴Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods 1-7" EPA Publication SW-846, ~~latest~~

~~edition,~~ as incorporated by reference in LAC 33:V.110, with a sample size of 10 grams and a distillation time of one hour and ~~25~~15 minutes.

⁵Vanadium and Zinc ~~is~~are not ~~an~~ "underlying hazardous constituent s" in characteristic wastes, according to the definition at LAC 33: V.2203.A.

Note: NA means not applicable

* * *

[See Prior Text in Table 8 - Certification Statement G]

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality-Hazardous Waste

Chapter 41. Recyclable Materials

§4139. Recyclable Materials Used in a Manner Constituting Disposal

* * *

[See Prior Text in A-A.4]

5. Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in Subsection A.2-4 of this Section and remain subject to regulation.

* * *

[See Prior Text in B-B.2]

3. Owners and operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of LAC 33:V.Chapters 1, 3, 5, 7, 9, 11, 15, 19, 21, 22, 23, 25, 27, 29, 31, 33, 35, 37; Subchapters A —M of Chapter 43; and the notification requirement under section 3010 of RCRA. †These requirements do not apply to

products which contain these recyclable materials under the provisions of LAC 33:V.4139.A.2. †

* * *

[See Prior Text in B.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:367 (April 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 22:21 (January 1996), LR 23:**.